REMARKS/ARGUMENTS

The final Office Action mailed October 27, 2010, has been reviewed and these comments are responsive thereto. Claims 1, 3, 5, 7-12, 18, 19, 21-23 and 25-29 have been amended and claims 13-17 were previously canceled. No new matter has been added. Claims 1-12 and 18-29 are thus pending in this application. Reconsideration and allowance of the instant application are respectfully requested.

Rejections Under 35 U.S.C. §112

Claims 28 and 29 stand rejected under 35 U.S.C. §112, first paragraph, as allegedly failing to comply with the written description requirement. Without acquiescing to the rejection, Applicant has amended claim 28 and 29 to be in a more preferred form. Withdrawal of this rejection is respectfully requested.

Rejections Under 35 U.S.C. § 103

Claims 1, 4, 5, 7, 10, 11, and 18-25 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,438,752 to McClard (hereinafter "McClard"), in view of U.S. Patent Application No. 2003/0028871 to Wang et al. (hereinafter "Wang"), in view of U.S. Patent Application No. 2002/0095676 to Knee et al. (hereinafter "Knee"), and further in view of U.S. Patent Application No. 2003/0067554 to Klarfeld et al. (hereinafter "Klarfeld"). Claims 2, 3, 8 and 9 stand rejected under § 103(a) as being unpatentable over McClard, in view of Wang, in view of Knee, in view of Klarfeld, and further in view of U.S. Patent Application No. 2003/0020744 to Ellis et al. (hereinafter "Ellis"). Claims 6 and 12 stand rejected under § 103(a) as being unpatentable over McClard, in view of Wang, in view of Knee, in view of Klarfled, and further in view of U.S. Patent Application No. 2002/0104087 to Schaffer et al. (hereinafter "Schaffer"). Claims 26 and 27 stand rejected under 35 U.S.C. §103(a) as being unpatentable over McClard in view of Wang, Knee, Klarfeld and further in view of Bedard (U.S. Patent No. 5,801,747, "Bedard"). For the reasons presented below, Applicant respectfully traverses.

Independent Claim 1

The references of record do not teach the features disclosed in independent claim 1. For example, amended claim 1 recites, *inter alia*:

> adding a category from a first set of categories of content items to a
> second set of categories of content items in response to a content viewing device
> being tuned, for a period of time at least equal to a first predetermined threshold,
> to a plurality of content items belonging to a category of the first set of categories.

In response to Applicant's Amendment dated August 10, 2010, the Office Action asserts at p. 2 that the combination of McClard and Wang describes such a feature. Applicant respectfully disagrees. As noted in the Office Action at p. 2, McClard describes determining whether a channel and corresponding program is tuned to for at least a predefined amount of time, storing information about the program (e.g., running time, day of week, channel, genre, etc.). Col. 5, line 66 - Col. 6, line 9. Wang similarly describes monitoring the time that a "content surfer" spends viewing a "program of interest" before switching to another channel (the "session time") and adding that time to a stored sum of the previous session times spent viewing *that particular content* (the "total time"), and once that total time reaches the threshold, updating user preferences. Wang at para. [0034]; see also Fig. 4*b*. Clearly, both McClard and Wang are directed to monitoring a time spent watching a ***single particular*** program and comparing that time against a threshold. In contrast, claim 1 recites a content viewing device being tuned to a ***plurality of content items*** for a period of time at least equal to a threshold. Thus, even combining McClard and Wang (as emphasized in the Office Action at p. 2), the combination would still fail to teach or suggest an amount of time a content viewing device is tuned to a ***plurality*** of content items belonging to a category. Indeed, McClard and Wang both only describe monitoring an amount of time a user is tuned to a single particular program.

Further, any assertion that it would have been obviousness to adapt McClard and/or Wang to account for a plurality of content items would be a clear exercise in hindsight reconstruction using Applicant's Specification as a blueprint. Moreover, modifying either McClard or Wang in such a manner would run counter to their intended purpose since the amount of time a user is tuned to a single program is a significant factor in the operation (e.g., generating user preferences and/or creating viewer profiles) of both systems. Accordingly, claim 1 is allowable for at least these reasons.

Independent Claim 7

Amended claim 7 recites substantially similar features as claim 1 and is thus allowable for substantially similar reasons as presented above. Accordingly, Applicant respectfully requests the rejection of claim 7 be withdrawn.

Dependent Claims

Dependent claims 2-6, 8-12, and 18-29 are allowable for the at least the same reasons as their respective base claims and further in view of the additional features recited therein. Accordingly, Applicant respectfully requests all rejections be withdrawn.

With respect to claims 18 and 19, the amended claims recite, *inter alia*:

> adding a category from the first set to the second set in response to multiple selectings of at least one content item belonging to the category of the first set of categories, said multiple selectings at least equal to a predetermined number of selectings.

The Office Action asserts at p. 6 that McClard describes adding a category in response to multiple selections of a broadcasted program, the multiple selections at least equal to a predetermined number of selections. Citing McClard at Col. 6, line 62 - Col. 7, line 7. However, the cited passage of McClard merely describes determining an order of preference of categories/genres based on a reception frequency of programs having a particular content or being a particular genre. Col. 6, line 62 - Col. 7, line 7. There is no teaching or suggestion of adding a category from memory 54 (i.e., the alleged first set) to memory 56 (i.e., the alleged second set). Indeed, McClard explicitly describes determining the order of preference by searching *frequency memory 56* (i.e., the alleged second set). Since the order of preference of program genres is being identified based on the second set, the identified favorite or preferred programming genres (i.e., the alleged category being added to the second set) would clearly already exist in the second set. Accordingly, claims 18 and 19 are allowable for this additional reason.

CONCLUSION

All rejections having been addressed, Applicant respectfully requests entry of the present amendment and notification of allowance. If any fees are due, or if an overpayment has been made, the Director is authorized to debit or credit Deposit Account No. 19-0733. Should the Examiner have any questions, the Examiner is invited to contact the undersigned at the number set forth below.

Respectfully submitted,

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